

**TITLE 15, DIVISION 1, CHAPTER 1, SUBCHAPTER 6
CORRECTIONS STANDARDS AUTHORITY**

SUBCHAPTER 6. 2007 LOCAL JAIL CONSTRUCTION FUNDING PROGRAM

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SUBCHAPTER 6. 2007 LOCAL JAIL CONSTRUCTION FUNDING PROGRAM

ARTICLE 1. GENERAL PROVISIONS

§1700. Purpose.

The purpose of these regulations is to implement and specify California Government Code Sections 15820.90 through 15820.918.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.90, 15820.901, 15820.902, 15820.903, 15820.905, 15820.906, 15820.907, 15820.91, 15820.911, 15820.912, 15820.913, 15820.915, 15820.916, 15820.917, and 15820.918, Government Code.

§1706. Definitions.

The following words, where used in this subchapter, shall have the meaning hereafter ascribed to them in this article, unless the context of their use clearly requires a different meaning.

"2007 Local Jail Construction Funding Program" means the requirements set forth in Chapters 3.11 and 3.12 of the California Government Code to finance the construction of local jails.

"Administrative work plan" means a comprehensive plan for designing, performing and managing the proposed project.

"Applicant" means the participating county that is applying for funding through the 2007 Local Jail Construction Funding Program.

"Assist the State in siting mental health day treatment and crisis care, and/or a continuum of care for parolees" means a Board of Supervisors' resolution outlining the county's intent to assist the State in siting mental health day treatment and crisis care, pursuant to Penal Code Section 3073, and/or a continuum of care at the conclusion of an offenders parole period.

"Assist the State in siting reentry facilities" means a Board of Supervisors' resolution outlining the county's intent to assist the State in siting a reentry facility, pursuant to Penal Code Section 6270.

"Authority" means State Corrections Standards Authority, which acts by and through its Executive Director and representatives.

"Board" means the State Public Works Board.

"Board of Supervisors' resolution" means a written resolution by a County Board of Supervisors.

"CCR" means California Code of Regulations.

"CDCR" means the California Department of Corrections and Rehabilitation.

"Cash match" and "hard match" are used interchangeably and mean cash dedicated to the project by the applicant for eligible expenditures as defined in Section 1714.

"Conditionally award state bond funds" means that counties selected for funding through the 2007 Local Jail Construction Funding Program will be awarded funds that are subject to or conditioned upon certain requirements including, but not limited to: 1) each county's project must be approved by the Authority and the Board at various stages throughout planning and construction as required by these regulations; 2) each selected county must enter into the state/county agreements as required by these regulations; and 3) the funding mechanism of lease-revenue bonds are able to be sold for each selected project.

"Construction documents" means architectural plans and specifications that are one hundred percent (100%) complete and generally include: completed specifications with bid proposal documents; completed construction drawings; and special interest items (corrections, modifications, or additions made to the documents).

"Construction management" means a specialized, multidisciplinary function provided by a firm or individual acting as the county's representative with the responsibility to guide the county through all phases of delivery of the construction project.

"Cost effectiveness" means a computed factor that is the state dollar cost per net gain in beds, to be computed as the total amount of state funds requested divided by the total net gain in beds.

"County" means a legal subdivision of the State of California as defined in subsection (a) of Section 1 of Article XI of the California Constitution.

"Design capacity" includes all housing areas, even those specialized units that are not included in the rated capacity. It does not, however, include temporary holding cells, such as those in the reception and booking areas of the facility. Design capacity is used in calculating costs per bed and square foot.

"Design development" means architectural plans and specifications that are fifty percent (50%) complete and generally include: outline specifications (detention hardware, equipment, and furnishings); floor plans (to scale with dimensions, room designations, references, wall types, and ratings); building sections (heights and dimensions); interior elevations; and preliminary structural, mechanical, and electrical drawings.

"Detention alternatives" means programming efforts designed to reduce jail crowding as well as recidivism among local offenders.

"EIR" means environmental impact report; a report as defined in the California Environmental Quality Act (CEQA) as implemented in Title 14, CCR, Public Resources Code, Sections 21000-21177.

"Evaluation and rating process" means the method by which each county's proposal will be evaluated using the criteria stipulated in Sections 1712, 1714, 1730, 1731, and 1740 of these regulations resulting in a rank ordered list for funding consideration.

"Facility administrator" means the sheriff or other official charged by law with the administration of a local jail.

"Facility lease" means a lease-revenue bond financing document in which the Board leases the site and the Board-financed local jail facility to CDCR for the term of the bonds and, subject to availability for use and occupancy, the CDCR agrees to pay rent and other related obligations.

"Facility sublease" means a sublease of the Board-financed local jail facility from CDCR, with the consent of the Board, to a participating county, for its use, operation and maintenance, as described in Section 1754.

"Ground lease" means a lease between a participating county and CDCR, with the consent of the Board, to place possession and control of the real property upon which the local jail facility will be constructed (the "site") with CDCR as described in Section 1752.

"Hard match" and "cash match" are used interchangeably and mean cash dedicated to the project by the applicant for eligible expenditures as defined in Section 1714.

"In-kind match" and "soft match" are used interchangeably and mean the cost of county-paid personnel, land, or services dedicated to the project by the applicant for eligible expenditures as defined in Section 1714.

"Large county" means a county with a general county population from 700,001 and above as estimated by the State Department of Finance for January 1, 2007.

"Lease-revenue bonds" and "state bond funds" are interchangeable and means lease-revenue bonds issued by the State Public Works Board for jail facilities as authorized in Chapters 3.11 and 3.12 of the California Government Code, as may be amended from time to time.

"Local jail" means Type II, III and IV facilities as defined in Title 15, CCR, Section 1006 and Title 24, CCR, Part 1, Section 13-102. Pursuant to Section 1712, only county-owned and operated local jails are eligible for state bond funding. Temporary and court holding facilities are not eligible for state bond funding.

"Match" means local funds in the form of cash, property value, or management/administrative services contributed by a county on a state bond funded project in the ratio described in Section 1714.

"Medium county" means a county with a general county population from 200,001 to 700,000 as estimated by the State Department of Finance for January 1, 2007.

"Needs assessment study" means a compilation of data that substantiates and justifies the scope of the project proposed to be funded through the 2007 Local Jail Construction Funding Program.

"Net gain in beds" means the number of beds (rated capacity and special use beds) to be added, minus the number of existing beds (rated capacity and special use beds) to be eliminated in the county (if any) as a result of the project constructed through the 2007 Local Jail Construction Funding Program.

"Operational program statement" means a description of the intended operation of a local jail proposed to be funded through the 2007 Local Jail Construction Funding Program.

"Participating county," as defined in California Government Code Sections 15820.90 and 15820.91, means any county or regional consortium of counties within the state that has been certified to the Board by the CDCR as having satisfied all of the requirements set forth in California Government Code Sections 15820.90 and 15820.906 or 15820.91 and 15820.916 respectively, for financing the construction or renovation of a local jail facility pursuant to those chapters.

"Project" means the construction or renovation of a local jail facility proposed to be funded by the 2007 Local Jail Construction Funding Program.

"Project delivery and construction agreement" means the written agreement and any amendments thereto between the Board, the CDCR, the Authority, and the participating county supplying the terms, provisions, and conditions governing the delivery of the project, as well as other supplemental terms and conditions that are deemed necessary to the project by the Board.

"Proposal" means the document prepared by a county, or two or more counties if a common application, by which a request is made to participate in the 2007 Local Jail Construction Funding Program.

"Proposal evaluation criteria" means criterion by which proposals will be rated for funding through the 2007 Local Jail Construction Funding Program.

"Rated capacity" means the number of inmate occupants, as determined by the Authority, for which a facility's single and double occupancy cells or dormitories (excluding those areas dedicated for medical or mental health care or disciplinary isolation housing), were planned and designed in conformity with the standards and requirements contained in Title 15, CCR, Division 1, Chapter 1, Subchapter 4 and Title 24, CCR, Part 1, Section 13-102 and Part 2, Section Chapter 12, Section 1231.

"Reentry preference" means preference given to counties that agree to assist the State in siting reentry facilities pursuant to Government Code Sections 15820.907 and 15820.917.

"Regional consortium of counties" means two or more counties bound together by a memorandum of understanding or a joint powers agreement identifying the terms, conditions, rights, responsibilities, and financial obligations of all parties.

"Schematic design" means architectural plans and specifications that are thirty percent (30%) complete and generally include: a site plan; floor plan; exterior elevations and cross sections; type of construction; and actual gross floor area.

"Scope of work and project impact" means a description of the project and the impact the project will have on the county's detention system.

"Site" means the property on which the local jail facility is located, including a buffer zone. Roadways or areas serving functions other than the jail shall not be considered part of the site.

"Small county" means a county with a general county population of 200,000 or fewer as estimated by the State Department of Finance for January 1, 2007.

"Soft match" and "in-kind match" are used interchangeably and mean the cost of county-paid personnel, land, or services dedicated to the project by the applicant for eligible expenditures as defined in Section 1714.

"Special use beds" means beds for the purpose of appropriately housing offenders in medical, mental health or disciplinary rooms, cells or units that are planned and designed in conformity to the standards

and requirements contained in Title 15, CCR, Division 1, Chapter 1, Subchapter 4 and Title 24, CCR, Part 1, Section 13-102 and Part 2, Chapter 12, Section 1231.

"Staffing plan" means an assessment and identification of staffing levels needed to operate the proposed project.

"State bond funds" and "lease-revenue bonds" are used interchangeably and mean lease-revenue bonds issued by the State Public Works Board for jail facilities as authorized in Chapters 3.11 and 3.12 of the California Government Code, as may be amended from time to time.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.90, 15820.901, 15820.902, 15820.903, 15820.905, 15820.906, 15820.907, 15820.91, 15820.911, 15820.912, 15820.913, 15820.915, 15820.916, 15820.917, and 15820.918, Government Code.

ARTICLE 2. ELIGIBILITY REQUIREMENTS

§ 1712. Eligibility Requirements.

- (a) To be eligible for participation in the 2007 Local Jail Construction Funding Program, a county shall:
 - (1) Submit the required proposal described in Section 1730 of these regulations;
 - (2) Complete or update a needs assessment study as prescribed in Section 1731 of these regulations;
 - (3) Provide match as specified in Section 1714 of these regulations;
 - (4) Provide a copy of a signed Board of Supervisors' resolution agreeing to assist the State in siting a reentry facility in their county, pursuant to Penal Code Section 6270, if applicable; and/or,
 - (5) Provide a copy of a signed Board of Supervisors' resolution agreeing to assist the State in siting mental health day treatment, crisis care, and/or a continuum of care for parolees in their county, pursuant to Penal Code Section 3073, if applicable.
- (b) If the conditions in subsection (a) of this regulation are met counties may apply for funding for the following:
 - (1) Costs of construction of the Authority-approved local jail facility project including site preparation, fixed equipment and fixed furnishings, and installation of fixed equipment and fixed furnishings necessary for the operation of the facility, not to exceed seventy five percent (75%) of the total project costs. Costs in excess of these levels, including higher than expected construction bids, unanticipated costs, cost overruns, and costs of moveable equipment and moveable furnishings, shall be funded by the county.
- (c) Projects or items not eligible for state bond funding under these regulations shall include, but not be limited to, the following:
 - (1) Temporary holding or court holding facilities.
 - (2) Local jail facilities or portions thereof operated by jurisdictions other than counties. City, state and federal facilities are not eligible for funding.
 - (3) Purchase, lease, or rent of land; personnel or operational costs; construction management; architectural programming and design; environmental reports; soil and/or water contamination assessment/mitigation; excavation of burial sites; moveable equipment and moveable furnishings; public art; off-site costs including access roads, power generation and utilities development; costs attributable to county building permit fees and/or building code inspection fees; supplies; bonus payments; and debt service or interest payments on indebtedness required to finance the county's share of project costs.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.901 15820.906, 15820.907 15820.91, 15820.916 and 15820.917, Government Code; Sections 3073 and 6270, Penal Code.

§ 1714. Matching Fund Requirements.

- (a) Participating county matching funds for projects proposed to be funded under these regulations shall be a minimum of twenty-five percent (25%) of the total project costs pursuant to California Government Code Sections 15820.907 or 15820.917.
- (b) The Authority may reduce matching fund requirements for participating counties with a general population below 200,000 upon petition by a participating county to the Authority requesting a lower level of matching funds.
- (c) Cash match must be at least 10 percent (10%) of total eligible project costs for large counties and at least 5 percent (5%) of total eligible project costs for medium and small counties.
- (d) Expenditures eligible as cash match shall include those for:
 - (1) Costs of construction of the Authority, CDCR and Board-approved local jail facility project;
 - (2) Architectural programming and design by consultants or contractors;
 - (3) Preparation of full or focused environmental reports by consultants or contractors; and,
 - (4) Construction management by consultants or contractors.
- (e) In-kind match cannot exceed 15 percent (15%) of total eligible project costs for large counties and cannot exceed 20 percent (20%) of total eligible project costs for medium and small counties.
- (f) Expenditures eligible as in-kind match shall include those defined above as eligible cash match expenditures, plus the following:
 - (1) Costs to audit the state bond financed project including staff salary/benefits of independent county auditor or services of a contracted auditor;
 - (2) A needs assessment study (or studies where applicable);
 - (3) Site acquisition cost or current fair market value supported by an independent appraisal of on-site land cost/value of new facility construction, or on-site land cost/value of a closed facility that will be renovated and reopened, and/or on-site land used for expansion of an existing facility. Costs cannot be claimed for land that is under an existing operational local jail facility;
 - (4) County administration where the staff salary/benefits are directly related to the construction project; and,
 - (5) Transition planning, including staff salary/benefits and consultant activities directly related to the construction project.
- (g) To qualify as match, local expenditures must be for the project funded by the Authority.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.906 15820.907, 15820.916 and 15820.917, Government Code.

ARTICLE 3. APPLICATION TO PARTICIPATE IN 2007 LOCAL JAIL CONSTRUCTION FUNDING PROGRAM

§ 1730. Proposal.

- (a) The proposal will be submitted on either the 2007 Local Jail Construction Funding Program Proposal Form, dated December 20, 2007, attached to the Request for Proposals Construction or Expansion of County Jails or the 2007 Local Jail Construction Funding Program, AB 900 – Phase 1 – 2009 Edition Proposal Form, dated July 21, 2009, attached to the Request for Proposals, Construction or Expansion of County Jails, AB 900 – Phase 1 – 2009 Edition, and incorporated

into these regulations by reference herein. This is an interactive form to be completed by counties electronically, printed and submitted as the project proposal along with other required documents as attachments. The form can be accessed through the Authority's website at <http://www.cdcr.ca.gov/Divisions/Boards/CSA/>. It is also available to the public upon request directly from the Authority's business office in Sacramento, CA.

- (b) Proposals shall consist of, but not be limited to, the following:
- (1) A signed Board of Supervisors' resolution agreeing to assist the State in siting a reentry facility in its county, pursuant to Penal Code Section 6270, if applicable;
 - (2) A signed Board of Supervisors' resolution identifying the reentry site location(s), accompanied by a resolution from the City Council if the site is owned by the city, if applicable;
(A) Pursuant to Section 1747.5, a siting agreement will be required.
 - (3) A signed Board of Supervisors' resolution agreeing to assist the State in siting mental health day treatment, crisis care, and/or a continuum of care for parolees in its county, pursuant to Penal Code Section 3073, if applicable;
 - (4) A signed Board of Supervisors' resolution authorizing submission of the proposal for state bond financing for a local jail facility;
 - (5) A needs assessment study as prescribed in Section 1731 of these regulations;
 - (6) A description of the project need;
 - (7) An estimated budget for the project, which must include identifying the amount of state bond funds requested and the local match to be provided; and,
 - (8) A description of the proposed scope of work for the project including project impact, (i.e., number of beds to be added), a construction and administrative work plan, and an estimated timetable for completion of major phases of the project.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.906 and 15820.916, Government Code; Sections 3073 and 6270, Penal Code.

§ 1731. Needs Assessment Study.

- (a) Any county or regional consortium of counties intending to construct or renovate a Type II, III or IV (as defined in Title 15, CCR, Section 1006 and Title 24, CCR, Section 13-102) local jail facility, or add 25 beds or more to an existing local jail facility shall complete a needs assessment study pursuant to Title 24, CCR, Part 1, Section 13-102(c)2. The needs assessment study shall be submitted with the proposal.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.906 and 15820.916, Government Code.

§ 1740. Proposal Evaluation Criteria.

Pursuant to California Government Code Sections 15820.906, 15820.907, 15820.916, and 15820.917, the criteria by which the proposals shall be rated shall include the following:

- (a) Assisting the State in siting reentry facilities;
- (b) Assisting the State in siting mental health day treatment, crisis care, and/or a continuum of care for parolees;
- (c) Cost effectiveness;
- (d) Documentation of need for the project;
- (e) Detention alternatives;
- (f) Scope of work and project impact;
- (g) Administrative work plan;

- (h) Net gain in beds; and,
- (i) Cash match.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.906, 15820.907, 15820.916, and 15820.917, Government Code.

§ 1747. Pre-funding Requirements.

- (a) Prior to a participating county receiving state bond funds, the Authority shall ensure that the county is ready to proceed with construction. A participating county shall be deemed ready to proceed with construction when it has done all of the following:
 - (1) Met all the requirements in the proposal pursuant to Section 1730 of these regulations;
 - (2) As required in Section 1749, obtained compliance with the operational and physical plant requirements in the Minimum Standards for Local Detention Facilities in Title 15, CCR, Division 1, Chapter 1, Subchapter 4 and Title 24, CCR, Part 1, Section 13-102 and Chapter 12, Section 1231 and the fire and life safety requirements in Title 24, CCR, Part 2, Volume 1, Chapter 4, Section 408;
 - (3) Filed with the Authority a summary of construction bids received, including a statement explaining to which contractor the bid was awarded and why, and a copy of the notice to proceed issued to its contractor;
 - (4) Filed with the Authority a schedule of values of expected financing from state bond funds, cash match, and in-kind match and other budget items, along with a construction schedule, project management plan, and names, roles and contact information of key county personnel;
 - (5) Filed with the Authority a financial plan detailing arrangements to provide its portion of project costs, including reserves for cash flow, source of matching funds, and a schedule of anticipated match expenditure that is at least proportional to the expenditure of costs that are proposed to be reimbursed by the financing of state bond funds;
 - (6) Filed with the Authority a statement citing any exemptions from federal laws, state or local laws, regulations, ordinances, standards, or requirements;
 - (7) Filed with the Authority a final notice of determination on its environmental impact report;
 - (8) Filed with the Authority a written certification, that the county has control of the site, either through fee-simple ownership or comparable long-term possession (minimum of a 40 plus year site lease or use permit), and right of access to the facility sufficient to assure undisturbed use and possession; and,
 - (9) Certified to the CDCR and the Authority that the Board has determined that the ownership interest of the participating county of the site or sites for the project is adequate for the purposes of its financing of the project, pursuant to Government Code Sections 15820.901 or 15820.911.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.901, 15820.906, 15820.911 and 15820.916, Government Code.

§ 1747.5. Requirements for the Siting Agreement.

- (a) A siting agreement between the CDCR and a participating county shall be entered into within ninety (90) calendar days following notification to the county by the Authority (with any additional time extensions at the discretion of the Authority) of the intent to conditionally award state bond funds for construction of a local jail facility based on a reentry preference. The signed siting agreement is necessary prior to the CDCR providing certification of funding to the Board where a preference for reentry has been awarded.
- (b) The agreement shall include, but not be limited to, the following:

- (1) A description of the reentry site including the proximity of water, sewer and power supply.
- (2) A signed Board of Supervisors' resolution identifying the proposed reentry site location(s), accompanied by a resolution from the City Council if the site(s) are located within the limits of a city, if applicable;
- (3) Language that states that the proposed site(s) is/are agreeable to CDCR.
- (4) The roles, responsibilities and performance expectations of the parties to establish a reentry facility.
- (5) A description of the needs of the individual county with respect to the parolee population, as well as the services and programs that will be available and/or necessary for a successful reentry facility.
- (6) A description of the location and design of the reentry facility, staffing and operations (where applicable) and additional terms as the parties deem necessary.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.905, 15820.907, and 15820.915, 15820.917, Government Code.

§ 1748. Requirements for the Project Delivery and Construction Agreement.

- (a) The project delivery and construction agreement between the Board, CDCR, the Authority, and a participating county shall be executed soon after the county is selected to participate and the county has received approval from the Board regarding the scope and cost of the project. The project delivery and construction agreement shall consist of standard contracting requirements used by the State of California as well as the roles, responsibilities and performance expectations of the parties for participation in and funding through the State's lease-revenue bond program for financing jail facilities.
- (b) The project delivery and construction agreement shall include, but not be limited to, the following:
 - (1) A narrative description of the project the participating county intends to construct, which shall include the design and construction or renovation of the local jail facility, pursuant to California Government Code Sections 15820.901 or 15820.911, costs for design and construction or renovation of the jail, and a schedule for completion of design and construction or renovation;
 - (2) The performance expectations of the parties related to the acquisition, pursuant to California Government Code Sections 15820.901 or 15820.911;
 - (3) Guidelines and criteria for the use and application of the proceeds of lease-revenue bonds, notes, or bond anticipation notes that are issued by the Board to fund the approved local jail facility project, pursuant to California Government Code Sections 15820.901 or 15820.911;
 - (4) Responsibilities for the ongoing maintenance and staffing during the financing, pursuant to California Government Code Sections 15820.901 or 15820.911;
 - (5) A brief statement as to who will be responsible for the legal, financial, institutional, and managerial resources available to ensure the completed construction of the jail;
 - (6) Information contained in the formal project proposal;
 - (7) Language that states that the participating county shall agree to indemnify, defend, and save and hold harmless the State of California for any and all claims and losses accruing and resulting from or arising out of the participating county's acquisition, design and construction of the local jail facility; and,
 - (8) Language that states that the county agrees to maintain the tax-exempt status of the bonds, notes, or bond anticipation notes issued by the Board.
- (c) Counties shall require their construction contractors to post payment and performance bonds, each of which shall be in an amount not less than one hundred percent (100%) of the construction contract price.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.901, 15820.905, 15820.911 and 15820.915, Government Code.

§ 1749. Submittal of Architectural Drawings and Specifications

- (a) Architectural drawings and specifications shall be submitted to the Authority at the schematic design phase, the design development phase, and the construction document phase, pursuant to Title 24, CCR, Part 1, Section 13-102(c)5.
 - (1) Pursuant to Title 24, CCR, Part 1, Section 13-102(c)3, an operational program statement shall be submitted with the schematic design drawings and specifications.
- (b) The Authority will review the drawings and specifications as soon as practicable, but no later than thirty (30) calendar days, and in the event of any major deficiencies, the Authority will notify the county in writing. Deficiencies may be identified as either failures to comply with minimum jail standards or as design features that may pose serious safety, security, operational, or management problems if left uncorrected, even where minimum jail standards are not violated.
- (c) Pursuant to California Government Code Sections 15820.906 and 15820.916, to enhance safety and security, the Authority may require changes in construction materials if the materials proposed with the final plans and specifications are not essential or customary, as used statewide for same security level facilities.
- (d) Deficiencies in compliance with the operational and physical plant requirements in the Minimum Standards for Local Detention Facilities in Title 15, CCR, Division 1, Chapter 1, Subchapter 4 and Title 24, CCR, Part 1, Section 13-102 and Part 2, Chapter 12, Section 1231 and construction materials shall be corrected by the county prior to advertising for bids.
- (e) Architectural drawings and specifications shall be submitted to the State Fire Marshal for review and approval.
- (f) The Board will have final approval of all projects, and Board approval or disapproval of any project is not subject to the appeal process as described in Article 5.
- (g) No state moneys shall be encumbered in contracts let by a participating county until construction document plans and specifications have been approved by the Authority and subsequent construction bids have been received.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.901, 15820.906, 15820.911, and 15820.916, Government Code; Section 6029, Penal Code.

§ 1750. Staffing Plan/Operating Cost Analysis.

- (a) At the time the county submits the design development plans and specifications for review and approval, it shall also submit a preliminary staffing plan, along with an analysis of other anticipated operating costs, for the facility. At a minimum, this plan shall include the following:
 - (1) Staffing requirements under the proposed design capacity;
 - (2) Shift and post identification of staff for the proposed facility, delineated by custody and support staff;
 - (3) Transition team program statement and costs;
 - (4) Analysis of a thirty (30) year lifecycle operating costs and maintenance and energy costs for the proposed facility; and,
 - (5) Identification of, and revenue sources for, sufficient county funds needed to support the staffing levels and operating costs for the proposed facility.
- (b) Following Authority determination that the preliminary staffing plan complies with regulations, the facility administrator or designee shall submit the preliminary staffing plan and operating cost analysis to the Board of Supervisors for review and approval.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.906 and 15820.916, Government Code.

§ 1751. General County Requirements.

- (a) Pursuant to California Government Code Sections 15820.901 and 15820.911, a participating county may acquire, design, and construct the local jail in accordance with its local contracting authority.
- (b) Pursuant to California Government Code Sections 15820.901 and 15820.911, a participating county may assign an inspector during the construction of the project, notwithstanding California Government Code Section 14951.
- (c) Pursuant to California Government Code Sections 15820.901 and 15820.911, the participating county is the lead agency responsible for compliance with the California Environmental Quality Act.
- (d) With the consent of the Board, the CDCR and a participating county are authorized to enter into leases, subleases, contracts, or other agreements pursuant to California Government Code Sections 15820.905 and 15820.915.
- (e) The participating county shall agree to indemnify, defend, and hold harmless the State of California for any and all claims and losses accruing and resulting from or arising out of the participating county's use and occupancy of the local jail facility.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.901, 15820.905, 15820.911 and 15820.915, Government Code.

§ 1752. Ground Lease.

- (a) In the situation involving a ground lease, a ground lease between the participating county and CDCR will be entered into after the county has entered into the project delivery and construction agreement and only after the county has certified the site pursuant to Government Code Section 15820.906(b)(1) and the Board has determined the site is adequate for purposes of financing in accordance with Government Code Section 15820.901(a). These certifications will be based upon thorough research of both recorded and unrecorded interests in the property, and may include, as appropriate, certification regarding any use, generation, storage, release, discharge or disposal of hazardous or toxic materials on, under, in or about the site.
- (b) The ground lease must be adequate to support lease-revenue financing and be in a form agreed to by the Office of the Attorney General, the Board and Authority.
- (c) Attached to the ground lease will be a metes and bounds legal description of the site and a simple diagram of the site, both with surveyor stamps or equivalent.
- (d) The ground lease will be recorded.
- (e) The site should not be encumbered by any liens or debt.
- (f) The recommended term is for 50 years, in no event less than 35 years after construction completion.
- (g) The lease term must be extended beyond the term to cover abatement periods due to abatement events.
- (h) The ground lease shall not be terminated as long as the lease-revenue bonds are outstanding, even in the event of default.
- (i) Damages for default shall be limited to specific performance or money damages.
- (j) After all lease-revenue bonds are paid off, the ground lease will terminate and title to the local jail facility will vest in county.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.901, 15820.905, 15820.906 and 15820.915 Government Code.

§ 1753. Right of Entry for Construction.

- (a) A right of entry for construction between CDCR and the participating county will be entered into concurrently with the ground lease. It will terminate when the construction is complete or until the facility sublease is entered into, whichever is earlier.
- (b) The right of entry for construction authorizes the participating county and their contractors to use the site that has been leased to CDCR via the ground lease for construction related activities.
- (c) The county shall agree to indemnify and hold harmless the State of California, CDCR and the Board for any and all claims and losses arising out of the construction of the local jail facility as part of the right of entry for construction.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.905 and 15820.915 Government Code.

§ 1754. Facility Sublease.

- (a) Immediately after the facility lease between the Board and CDCR is executed, CDCR and the participating county shall enter into a facility sublease of the facility lease. Subject to the terms of the facility sublease, the county may use and occupy the local jail facility.
- (b) The facility sublease is subject to and subordinate to the facility lease.
- (c) The facility sublease shall include, but not be limited to, the following requirements:
 - (1) The county shall not abandon the local jail facility.
 - (2) The county is obligated to maintain (both ordinary and extraordinary) the local jail facility during the term of the facility sublease (including the costs of ordinary wear and tear) and arrange for the payment of all utilities and applicable taxes or assessments. The county must annually submit to Board and CDCR proof of its approved budget detailing the allocation of funds to maintain and operate the local jail facility.
 - (3) Subject to the availability of the local jail facility for occupancy, CDCR will continue to pay rent under the facility lease.
 - (4) The county may make additions, betterments or improvements to the local jail facility in a manner that will not result in abatement of rental.
 - (5) CDCR will maintain the insurance policies required under the facility lease. The county will maintain commercial general liability insurance and other insurance required by the Board or maintain an acceptable self-insurance program and provide proof of insurance to the Board and CDCR annually.
 - (6) The county agrees to indemnify and hold the State of California, CDCR and the Board harmless for any and all claims and losses accruing, resulting from or arising out of the county's use and occupancy of the local jail facility.
 - (7) The county agrees not to encumber the local jail facility or otherwise subordinate its interest in the local jail facility under the facility sublease.
 - (8) The county agrees to annually provide the CDCR, Board and the State Treasurer information about private activity use within the local jail facility and agrees to cooperate and provide continuing disclosure information per the Continuing Disclosure Agreement.
 - (9) The county promises not use or permit the use of the local jail facility in any manner which would cause the Board bonds to be "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986.
 - (10) The county promises to obtain the consent of the Board and CDCR to any assignment, subletting or transfer of its interest in the facility sublease or any part thereof.

- (11) In the event of breach by the county that goes uncured, CDCR may evict the participating county and together with the Board may relet the local jail facility.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.905 and 15820.915 Government Code.

ARTICLE 4. ADMINISTRATION OF THE PROCEEDS OF THE STATE BOND FUNDS AND PROJECT MONITORING

§ 1756. Disbursement of the Proceeds from the Lease-Revenue Bond Funds.

- (a) No state moneys shall be encumbered in contracts let by a participating county until construction document plans and specifications have been approved by the Authority pursuant to Section 1749 and subsequent construction bids have been received.
- (b) Upon approval of the participating county's proposal by the Authority and execution of the project delivery and construction agreement, a payment schedule will be established by the Authority.
- (c) Proceeds of lease-revenue bonds can only be used for activities that occur after the date of the conditional award for state bond funds.
- (d) Requests for payments from the proceeds of lease-revenue bonds shall include such supporting documentation as may be required by the Board and/or the Authority and, in the event of deficiencies in the request, the participating county shall be notified by the Authority of the deficiencies as soon as practicable.
- (e) Payments from the proceeds of lease-revenue bonds shall be processed by the Authority subject to the following conditions:
 - (1) Payment shall be made in arrears (reimbursement) on a quarterly basis through invoicing;
 - (2) No payments will be made until the participating county has complied with all applicable state requirements; and,
 - (3) At such time as the balance from the proceeds of lease-revenue bonds to the participating county reaches twenty percent (20%), the Authority shall withhold that amount as security, to be released to the participating county upon compliance with all of the terms in the project delivery and construction agreement and conditions and requirements of law and regulation, including staffing and operating the facility within ninety (90) days of construction completion, receipt and approval of the final project audit report, and final construction inspection and approval by appropriate officials.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.903, 15820.906, 15820.913, and 15820.916, Government Code.

§ 1757. Pooled Money Investment Board.

- (a) Pursuant to California Government Code Sections 16312 and 16313, the Pooled Money Investment Board may make loans from the Pooled Money Investment Account to the CDCR for the purpose of carrying out projects authorized to be financed by lease-revenue bonds, notes, or other indebtedness.
- (b) Pursuant to Government Code Sections 15820.902 and 15820.912, upon project approval by the Board, CDCR and the Authority, and upon a participating county's receipt of responsive construction bids, the Board and the CDCR may borrow funds from the Pooled Money Investment Account, pursuant to California Government Code Sections 61312 and 61313, or from any other appropriate source.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 16312, 16313, 15820.902, and 15820.912, Government Code.

§ 1760. Accounting.

- (a) All proceeds of lease-revenue bonds received by the participating county shall be deposited into separate fund accounts, which identify the funds and clearly show the manner of their disposition.
- (b) Accounting for proceeds of lease-revenue bonds shall be in accordance with generally accepted accounting principles and practices. Supporting records must be maintained by the participating county in sufficient detail to demonstrate that the state bond funds were used for the purpose for which the award was made and in accordance with the provisions of state contracting and shall be subject to Board and Authority audit as described in Section 1770.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.906 and 15820.916, Government Code.

§ 1766. Monitoring of Process.

- (a) The Authority shall regularly monitor the administration of the project and the distribution of the proceeds of lease-revenue bonds to a participating county, in order to assess compliance and determine that the project is operating in accordance with the approved proposal, these regulations and the law.
- (b) The Board shall have administrative oversight of the project.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.901, 15820.906, 15820.911 and 15820.916, Government Code.

§ 1767. Completion of Project.

The participating county shall agree to proceed with the agreed upon construction schedule and complete the project in accordance with the project delivery and construction agreement and the plans and specifications approved by the Board and the Authority. If a participating county is not proceeding with the construction schedule as agreed to in the project delivery and construction agreement, the Authority has the discretion to give written notice of failure to comply with terms of the project delivery and construction agreement and may terminate that agreement.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.901, 15820.905, 15820.906, 15820.911, 15820.915, 15820.916, Government Code.

§ 1768. Project Modifications.

- (a) Project modifications proposed after the project delivery and construction agreement is signed require a written amendment and approval of the Board and the Authority if the modifications:
 - (1) Substantially alter the design or scope of the project;
 - (2) Substantially alter the design, location, size, capacity, or quality of major items of equipment; or,
 - (3) Change the number of beds or otherwise impact Authority construction or operational regulations.
- (b) Summaries of all change orders shall be submitted to the Authority quarterly.
- (c) Neither the approval of the project delivery and construction agreement or any action of staff with respect to project changes, including approval or disapproval thereof, shall commit or obligate the Authority to any increase in the amount of the funds conditionally awarded, except as expressly provided in writing by the Authority.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.906 and 15820.916, Government Code.

§ 1770. Audits.

- (a) A participating county shall perform a financial audit of its project within ninety (90) days following construction completion. The audit shall be performed under the direction of a Certified Public Accountant or a county auditor that is organizationally independent from the county's project financial management functions. In addition, the Board and Authority reserve the right to audit the accounting records of the project at any time. The Board and Authority may disallow claims for the proceeds of lease-revenue bonds and/or applicable matching credit for all or part of the cost of an item determined to be ineligible and/or not in compliance with the terms and conditions of the bond contract.
- (b) Any improper expenditure of the proceeds of lease-revenue bonds disclosed in such audits will be recovered by the state through withholding future payments and/or repayment by the participating county, at the discretion of the Authority.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.906 and 15820.916, Government Code.

§ 1772. Unused Proceeds of Lease-Revenue Bonds.

- (a) In no case shall a county receive the proceeds of lease-revenue bonds in excess of the amount of the conditional award provided by the Authority.
- (b) Any proceeds of lease-revenue bonds determined to have been inappropriately or erroneously spent, including those resulting from noncompliance as well as overpayments resulting from county plan modifications or other causes, shall, upon written notification, be repaid to the state. Such repayment may be by county warrant and/or may be withheld from subsequent payments at the discretion of the Authority.
- (c) Any proceeds of lease-revenue bonds not expended by a participating county pursuant to the approved proposal, project delivery and construction agreement or approved construction plans shall be redistributed to other counties and used for other eligible projects. This repayment may be made by:
 - (1) County warrant payable to the state within thirty (30) calendar days of the date of notification; or through a negotiated repayment and interest schedule; or a combination of (c) (1), (c) (2) and (c) (3);
 - (2) Deduction by the Authority of the amount to be repaid by the county from the next progress payment(s) by the state; or,
 - (3) Deduction by the Authority of the amount to be repaid by the county from the retention amount withheld.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.906 and 15820.916, Government Code.

ARTICLE 5. APPEAL PROCEDURES

§ 1776. Purpose.

The appeal hearing procedures are intended to provide a review concerning the Authority's proposal evaluation and rating process. A county may appeal on the basis of the Authority's alleged funding criteria misapplication, capricious enforcement of regulations, or substantial differences of opinion as

may occur concerning the proper application of regulations or procedures regarding the proposal evaluation and rating process.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.906 and 15820.916, Government Code.

§ 1778. Definitions.

For the purposes of this article, the following definitions shall apply:

"Appeal hearing" means an administrative procedure providing an appellant with an opportunity to present the facts of the appeal for a formal decision concerning matters raised pursuant to the purposes set forth in Section 1776 of these regulations.

"Appellant" means a participating county that files a request for an appeal hearing.

"Authority" means Corrections Standards Authority, which acts by and through its Executive Director and representatives.

"Authorized representative" means an individual authorized by the appellant to act as his/her representative in any or all aspects of the hearing.

"Executive Director" means the Executive Director of the Authority.

"Filing date" means the date a request for an appeal hearing is received by the Executive Director's office at the Corrections Standards Authority.

"Hearing panel" means a panel comprised of three members of the Authority, who shall be selected by the chairperson of the Authority at the time the appeal is filed. A fourth member may be designated as an alternate. Members designated to the hearing panel shall not:

- (i) Be employed by, or be residents of, the county submitting the appeal or,
- (ii) Be employed by any other county that has a funded project or is seeking qualification for disbursement of the proceeds of lease-revenue bonds.

"Notice of decision" means a written statement by the Executive Director of the Authority, which contains the formal decision of the Executive Director and the reason for that decision.

"Proposed decision" means a written recommendation from the hearing panel to the Authority, containing a summary of facts and a recommended decision on the appeal.

"Request for appeal hearing" means a clear written expression of dissatisfaction about a procedure or action taken and a request for a hearing on the matter, and filed with the Executive Director of the Authority.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.906 and 15820.916, Government Code.

§ 1788. Request for Corrections Standards Authority Appeal Hearing.

- (a) If a participating county is dissatisfied with an action of the Authority's evaluation and rating process, it may file a request for an appeal hearing with the Authority. Such appeal shall be filed within thirty (30) calendar days of the notification of the action with which the county is dissatisfied.
- (b) The request shall be in writing and:
 - (1) Shall state the basis for the dissatisfaction;
 - (2) Shall state the action being requested of the Authority;
 - (3) Shall state the desired remedy; and,
 - (4) Shall include as attachments any correspondence related to the appeal to and from the Executive Director.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.906 and 15820.916, Government Code.

§ 1790. Corrections Standards Authority's Hearing Procedures.

- (a) The hearing shall be conducted by a hearing panel, designated by the Chairperson of the Authority, at a reasonable time, date, and place, but not later than twenty-one (21) days after the filing of the request for hearing with the Authority, unless delayed upon mutual agreement by the Authority and the participating county. The Authority shall mail or deliver to the appellant or authorized representative a written notice of the time, date, and place of hearing not less than seven days prior to the hearing.
- (b) The procedural time requirements may be waived with mutual written consent of the parties involved.
- (c) Appeal hearing matters shall be set for hearing, heard, and disposed of by a notice of decision within sixty (60) days from the date of the request for appeal hearing, except in those cases where the appellant withdraws or abandons the request for hearing or the matter is continued upon mutual agreement by the hearing panel and the participating county.
- (d) An appellant may waive a personal hearing before the hearing panel and, under such circumstances, the hearing panel shall consider the written information submitted by the appellant and other relevant information as may be deemed appropriate.
- (e) The hearing is not formal in nature. Pertinent and relevant information, whether written or oral, will be accepted. Hearings will be tape recorded.
- (f) Neither the Federal Rules of Evidence nor the California Rules of Evidence apply in these administrative hearings.
- (g) After the hearing has been completed, the hearing panel shall submit a proposed decision in writing to the Authority at its next regular public meeting.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.906 and 15820.916, Government Code.

§ 1792. Corrections Standards Authority's Decision.

- (a) The Authority, after receiving the proposed decision, may:
 - (1) Adopt the proposed decision;
 - (2) Amend the decision with or without taking additional evidence into consideration; or,
 - (3) Order a further hearing to be conducted, if additional information is needed to decide the issue.
- (b) After the hearing panel's proposed decision is adopted, or an alternate decision is rendered by the Authority or notice of new hearing ordered, the notice decision or other such actions shall be sent via certified mailed by the Authority to the appellant.
- (c) The record of the testimony, exhibits, all papers and requests filed in the proceedings, and the hearing panel's proposed decision shall constitute the exclusive record for decision and shall be available to the appellant for one year after the date of the Authority's notice of decision in the case.
- (d) The decision of the Authority shall be final.

Note: Authority cited: Sections 15820.906 and 15820.916, Government Code; Section 6030, Penal Code. Reference: Sections 15820.906 and 15820.916, Government Code.